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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,851	05/16/2006	Hans-Ulrich Zuercher	ZUERCHER	7865
20151 7590 01/07/2008 HENRY M FEIEREISEN, LLC 350 FIFTH AVENUE SUITE 4714 NEW YORK, NY 10118			EXAMINER LEE, GILBERT Y	
			ART UNIT 3673	PAPER NUMBER
			MAIL DATE 01/07/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.	Applicant(s)	
10/595,851	ZUERCHER, HANS-ULRICH	
Examiner	Art Unit	
Gilbert Y. Lee	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/16/06</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to because reference characters "7" and "8" should be switched on the right side of Fig. 1 and Fig. 3 shows two different embodiments, each embodiment must have it's own figure number. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the protective tape in

claim 6 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: in Para. [0001] the specification refers to claim 1. The reference to claim 1 must be deleted since the scope of claims change throughout prosecution. In Para. [0002], Line 9, "in strapped" should be changed to –is strapped–; in line 11 "requiring" should be changed

to --require--; on Page 6, Lines 20-21 the sentence that starts with "Hereby" seems to be a direct translation and is unclear as to what is being described.

Appropriate correction is required.

4. The use of the trademark KEVLAR AND PANOX has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Objections

5. Claims 1-10 are objected to because of the following informalities: all independent claims must start with "A" and all dependent claims must start with "The". Appropriate correction is required.

6. Claim 4 is objected to because of the following informalities: "form" in line 3 should be changed to --from--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 4, 5, and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4 and 5 contain the trademark/trade names KEVLAR and PANOX. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade names are used to identify/describe strong para-aramid synthetic fiber and oxidized fiber for textile, respectively, and, accordingly, the identification/description is indefinite.

Claim 10 recites "the bag center section, the lateral folding panels, the foot pocket, the carrying straps and the bands are sewn up." It is unclear as to whether the applicant is claiming that the panels, pocket, straps and bands are sewn together or if the applicant is claiming that each are made of sewn materials. For the purposes of this examination, the examiner is interpreting the claim as being a product by process limitation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-5 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Couldridge (US Patent No. 5,699,568) in view of Zhu et al. (US Patent No. 6,840,288).

Regarding claim 1, Couldridge reference discloses a rescue dragging bag (Fig. 1) for persons comprising, a heat resistant sheeting or canvas (e.g. 10), wherein overlapping lateral folding panels (e.g. 24 and 26) are disposed at and extending laterally from a bag central section (e.g. 22), and that a longitudinal end area of the center section forms a pocket (e.g. at 52 in Figs. 3-4) for placing the person's feet (Figs. 5-6), and that means (e.g. including 46, 48, 128 130) are provided at the central section for tightly gathering the overlapping lateral folding panels (Figs. 3-6), including an outer coating begin made of waterproof material (e.g. 12).

However, the Couldridge reference fails to explicitly disclose the outer cover being abrasion and tear resistant.

The Zhu et al. reference, a fabric, discloses making covers of fire-retardant fabric with improved tear, cut, and abrasion resistance (Title).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the outer coating of the Couldridge reference with an abrasion and

tear resistant material in view of the teachings of the Zhu et al. reference in order to provide protection against fire, flame, and heat (Col. 1, Lines 13-15).

Regarding claim 2, the Couldridge reference, as modified in claim 1, discloses the means for tightly gathering the overlapping lateral folding panels disposed at the outer surface of the bag center section being bands (Couldridge, e.g. 128 and 130) with quick action closures (Couldridge, Col. 3, Lines 18-25) by which the folded and overlapping side panels are tightly strapped to each other (Figs. 4-6).

Regarding claim 3, the Couldridge reference, as modified in claim 1, discloses the means for tightly gathering the lateral folding panels are hook and loop fasteners (Couldridge, e.g. 46, 48, 100, and 102) sewn to the lateral folding panels by means of which the overlapping and folded side panels can be firmly fastened (Couldridge, Fig. 2).

Regarding claim 4, the Couldridge reference, as modified in claim 1, discloses the bag central section, the lateral folding panels and the foot pocket being made from glass fiber fabric or from a mixed fabric of KEVLAR or PANOX (Zhu et al., Col. 5, Lines 31-41).

Regarding claim 5, the Couldridge reference, as modified in claim 1, discloses the outer coating of the bag center section and the foot pocket being from KEVLAR coated with polyurethane carbon (Zhu et al., Col. 4, Lines 26-51).

Regarding claim 8, the Couldridge reference, as modified in claim 2, discloses the bands that are attached to the bag center section being quick action fastener straps

which are connectible by means of a snap fastener or plug fastener (Couldridge, Col. 3, Lines 18-25).

Regarding claim 9, the Couldridge reference, as modified in claim 1 discloses the rescue bag being reinforced on the inside with a mat (e.g. 14).

However, the modified Couldridge reference fails to explicitly disclose the mat being made of felt.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the mat of felt, since it has been held to be within the general skill of a worker in the art to select a know material on the basis of its suitability for the intended use as a matter of obvious mechanical expedience.

MPEP 2113 Product-by-Process Claims states that "If the product in the product-by-process claim is that same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made by a different process." Claim 10, as best understood, is anticipated by the modified Couldridge reference. The process by which the center section, panels, pocket, straps, and bands are made is not a patentable distinction.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Couldridge in view of Zhu et al. as applied to claims 1-5 and 8-10 above, and further in view of Thornton et al. (US Patent No. 5,244,716).

Regarding claim 6, the modified Couldridge reference discloses the invention substantially as claimed in claim 5, including the outer coating being connected to the sheet.

However, the modified Couldridge reference fails to explicitly disclose the outer coating being sewn to the bag center section and the foot pocket.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide stitching instead of hook and loop fasteners to the modified Couldridge reference, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious mechanical expedience and in order to provide a stronger connection to the layers.

The modified Couldridge reference fails to explicitly disclose a protective tape for the seams made from the coating material.

The Thornton et al. reference, a fabric, discloses providing a protective tape for seams (Col. 23, Lines 25-37).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a protective tape to the modified Couldridge reference in order to resist penetration of liquid water (Thornton et al., Col. 23, Lines 25-37). It would also have been obvious to one of ordinary skill in the art at the time of the invention to provide the same material to the protective tape as the outer cover to provide the same uniform characteristics to the outer cover.

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Couldridge in view of Zhu et al. as applied to claims 1-5 and 8-10 above, and further in view of Murphy (US Patent No. 5,050,254).

Regarding claim 7, the modified Couldridge reference discloses the invention substantially as claimed in claim 1.

However the modified Couldridge reference fails to explicitly disclose carrying straps.

The Murphy reference, a stretcher, discloses the addition of straps (e.g. 26 and 40) to the stretcher (Fig. 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide straps to the modified Couldridge reference in view of the teachings of the Murphy reference in order to allow a single person to drag the stretcher instead of two people (Murphy, Col. 4, Lines 22-31).

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gilbert Y. Lee whose telephone number is 571-272-5894. The examiner can normally be reached on 8:00 - 4:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571)272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GL
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David Bagnell
Supervisory Patent Examiner
Tech. Center 3600